FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 352/2007
(Smt. Kusumbai Madhukarrao Kache Vs. Bhagwat Yadaorao Keche)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. M.N. Ingley, Adv. for the appellant.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 24th September, 2007.

Heard Shri Ingley for the appellant.

The appellant is the original plaintiff. A suit was filed by the plaintiff for grant of permanent injunction restraining the defendant from obstructing the plaintiff from using the suit way shown by letters "ABC". According to the plaintiff, he was using the suit way as easement of necessity.

The defendant denied the claim of the plaintiff and pleaded that the plaintiff had an alternative way to approach his field. According to the defendant, the plaintiff had never used the suit way shown by letter "ABC" and, therefore, was not entitled to the grant of permanent injunction.

Both the Courts, after appreciating the material evidence tendered by the parties on record, came to a conclusion that the plaintiff had failed to prove the right of way shown by letters "ABC". The

Courts further held that the plaintiff had failed to prove his right to use the suit way as easement of necessity.

The findings recorded by both the Courts are based on a proper appreciation of material evidence on record. They do not give rise to any substantial question of law.

Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP